IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

L.P.A. No. 74 of 2007

Date of decision:19.9.2007

Randhir Singh **Appellant**

Versus

Union of India and others **Respondents**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K.Ahuja, Judge.

Whether approved for reporting?[1]

For the Appellant: Mr. M.C.Verma, Advocate

For the Respondents: Mr. Ravinder Thakur, Central Government Counsel

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Per Deepak Gupta, J. (Oral)

CMP(M) No. 569 of 2007
Allowed and stands disposed of.

L.P.A. No. 74 of 2007
This appeal is directed against the judgment of the learned Single Judge of this court dated 16th May, 2007 in CWP No. 1333 of 2005. The petitioner who was employed as Constable in the Central Industrial Security Force was charge sheeted on four grounds. The charges were that he remained absent from duty from 24th February, 2003 to 27th February, 2003; that though he

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

was absent during this period, he marked his presence in the deployment register for the period 24th February to 26th February, 2003; that he misbehaved and used foul language against his superior officers; and that his previous record also showed that he was in the habit of misbehaving and mis-conducting himself.

An inquiry was conducted against him and after due inquiry the inquiry officer found that the first three charges stood proved against the appellant. The disciplinary authority imposed an order of dismissal from service against the appellant. The appellant challenged the order of disciplinary authority in departmental proceedings by filing appeal and revision, but the same were rejected. Thereafter the appellant filed a civil writ petition in the High Court of Punjab and Haryana which was subsequently withdrawn and thereafter he filed writ petition in this court which was disposed of by the impugned judgment dated 16th May, 2007.

The learned Single Judge after considering the entire material including the inquiry report has come to the conclusion that no interference is called for since the writ court would normally be reluctant to interfere in the findings of disciplinary authority as well as in the

quantum of punishment imposed by the disciplinary authority.

It has been strenuously contended before us that penalty of dismissal imposed is totally disproportionate to the charge of having remained absent for 3 days from duty. If this was the only finding of which the appellant was found guilty, we may have considered the matter further. However, we find that in this case not only was it found that the appellant remained absent from duty, but thereafter he forged the official record and marked his presence when he was admittedly absent during those four days. In a disciplined force like the CISF such a misconduct cannot be tolerated. Learned counsel for the appellant has also urged that inquiry is bad because no proper assistance was given to the appellant. This point has been taken for the first time in appeal. This plea was neither raised in the writ petition nor argued before the learned Single Judge. The appeal is without any merit and is accordingly dismissed.

(Deepak Gupta), J.

September 19, 2007(K) (V. K. Ahuja), J.